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COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 57th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 April 1998, at 3 p.m.

Chairperson: Mr. SELEBI (South Africa)

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CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS RELATING TO ITEM 10 OF THE AGENDA (continued)

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GE.98-12460 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS RELATING TO ITEM 10 OF THE AGENDA (continued) (E/CN.4/1998/L.90, L.91, L.100, L.101, L.102, L.104 and L.105)

Draft resolution E/CN.4/1998/L.90 (Extrajudicial, summary or arbitrary executions)

1. Mr. ROMARE (Observer for Sweden) introduced the draft on behalf of its sponsors, who were joined by Cape Verde, Georgia, Guinea and Ukraine. Once again, the document strongly condemned all extrajudicial, summary or arbitrary executions, and demanded that all Governments ensure that such practices be brought to an end. It also called on the Governments of all States in which the death penalty had not been abolished to comply with their obligations under the relevant international instruments. The mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions, who was commended for his major contribution, was extended for another three years.

2. Following lengthy consultations, the co-sponsors had finally agreed to change paragraph 6, inserting after the words "violations of the right to life", in the third line, the words "by extrajudicial, summary or arbitrary executions". In paragraph 17, the phrase "within the overall budgetary framework of the United Nations" was deleted, and the words "to continue" were added after "to enable him". In paragraph 22 of the draft decision, the phrase "within the overall budgetary framework of the United Nations" was also deleted and the words "to continue" were added after "to enable him" in the penultimate line.

3. The authors hoped that the consensus text, like the resolutions of previous sessions on the subject, would be adopted without a vote.

4. Mrs. KLEIN (Secretary of the Commission) said that extending the Special Rapporteur's mandate by three years would involve expenses totalling US$ 119,900 for the period 1998-1999, the funds for which were included in section 22 (Human rights) of the 1998-1999 biennial programme budget. Resources for the third year of the Special Rapporteur's mandate would be provided for in the draft programme budget for the 2000-2001 biennium.

5. Mrs. RUBIN (United States of America) said that her delegation was pleased it could join the consensus on the proposed text, on the understanding that the Special Rapporteur's mandate consisted primarily in investigating countries where extrajudicial, summary or arbitrary executions posed major problems, and perhaps secondarily in considering whether international standards were met in countries where capital punishment was in force, but without addressing the issue of abolition per se.

6. Although they had been disappointed by the report on their country, which left out extensive information provided to the Special Rapporteur about the effective protections in their legal system, the United States recognized that the Special Rapporteur had done an outstanding job in countries such as Bosnia and Rwanda, where he had been among the first to report on massive human rights abuses.

7. The United States had, moreover, played a prominent role in the establishment of the system of special rapporteurs, whose work often constituted a significant contribution in the field of human rights. For that reason, her delegation was prepared to renew the important mandate to which the draft resolution referred.

Draft resolution E/CN.4/1998/L.90, as amended, was adopted without a vote.

Draft resolution E/CN.4/1998/L.91 (The question of human rights in Afghanistan)

8. Following an exchange of views between Mrs. ZUPPETTI MARINI (Italy) and Mr. AKRAM (Pakistan), the CHAIRPERSON proposed that the authors and other interested delegations should hold consultations to reach a consensus.

Draft resolution E/CN.4/1998/L.100 (Situation of human rights in the Islamic Republic of Iran)

9. Mrs. GLOVER (United Kingdom), introducing the draft resolution on behalf of the member States of the European Union and all co-sponsors, said that the exhaustive attempts made to reach agreement on a text which would be acceptable to Iran had regrettably failed.

10. In the proposed draft, the Commission welcomed with satisfaction the commitment by the Government of Iran to encourage respect for human rights and the rule of law, and recognized improvements in the area of freedom of expression. Nonetheless, the draft reflected concern about the continuing human rights violations taking place in the country, particularly torture and other forms of cruel, inhuman or degrading treatment or punishment, including amputation, stoning and public executions, which continued to be applied for non-violent crimes and for apostasy, and the grave violations of the human rights of the Baha'i minority and women. Furthermore, nine years after the proclamation of the fatwa, the life of Mr. Salman Rushdie continued to be threatened and no written assurances of his safety had been obtained from the Government of Iran. Serious concerns remained over violence directed at Iranians living abroad. Finally, the Government of Iran was called upon to resume full cooperation with the machinery of the Commission, and particularly with its Special Representative. The Government was requested to allow the Special Representative access to the country, and to implement fully his recommendations, as well as those of the thematic rapporteurs.

11. The delegation of the United Kingdom hoped that the draft resolution, which reflected in a balanced way the situation in Iran and the action needed by the Iranian authorities, would be supported by all members of the Commission.

12. Mrs. KLEIN (Secretary of the Commission) announced that Japan and San Marino were joining the co-sponsors of the draft.

13. Mr. AKRAM (Pakistan) said that there had been positive developments in the human rights situation in Iran. Since taking office in August 1997, the new President had launched various initiatives to consolidate democratic institutions, to allow more active civil and political participation, to

strengthen the rule of law, to promote women's rights, to foster national mechanisms for the promotion and protection of human rights and to ensure freedom of expression.

14. Unfortunately, the draft resolution before the Commission emphasized certain isolated incidents. It was also too long, repetitive and factually inaccurate. Since no country or group of countries could claim to have created an ideal society free from human rights violations, if isolated incidents, rather than trends, were the criteria for resolutions on country situations, the list would undoubtedly be endless. The draft resolution did not therefore positively encourage the Government of Iran to promote and protect human rights.

15. The Commission's Special Representative on the situation of human rights in Iran had, moreover, stated in his presentation to the Commission that he hoped that the resolution it would adopt would avoid becoming bogged down in details and would reflect, indeed welcome, the prospect of substantial change which was clearly evident in that dynamic society. The draft resolution sent the wrong message, since it demonstrated to the Government of Iran that cooperation in the field of human rights did not pay, and it cast doubt on the credibility and integrity of human rights mechanisms, in particular that of the Commission.

16. Since the attempts supposedly made by the co-sponsors to reach a consensus had failed, several Islamic countries were proposing a number of changes to the draft resolution (contained in document E/CN.4/1998/L.105), in order to encourage the Government of Iran to pursue its positive developments. In application of article 52 of the rules of procedure of technical commissions of the Economic and Social Council, Pakistan therefore requested the Commission to delay its decision by 24 hours.

17. Mrs. GLOVER (United Kingdom) said that the member States of the European Union were always open to consultation, but noted that the delegation of Pakistan was presenting its amendments very late. In any event, given that the proposed changes upset the delicate balance of the original text, the United Kingdom could not subscribe to them and was opposed to the idea of delaying the decision.

18. Mr. BENJELLOUN TOUIMI (Morocco) endorsed the comments made by the representative of Pakistan. It appeared that the European countries showed very little perseverance in their efforts to reach a consensus, since amendments obviously had to be discussed if they were to be accepted. He felt that the attitude of those countries showed a measure of reluctance, which was particularly regrettable at the time of the celebrations for the fiftieth anniversary of the Universal Declaration of Human Rights. The text proposed by the member States of the European Union did admittedly refer to positive changes, but it remained overly oriented towards the past. Morocco supported the idea of delaying the Commission's decision by 24 hours, since the text as it stood was not likely to improve the situation in Iran.

19. Mr. de ICAZA (Mexico) pointed out that, contrary to the rules set down for the organization of work and the conduct of debates in the Commission (E/CN.4/1998/CRP.4), and to article 52 of the rules of procedure, the draft

resolution had been distributed only that same morning to members of the Commission, who had not necessarily had the time to consider it. They were therefore not in a position to express their views on the draft, and much less on the amendments, which had only just been presented and the texts of which had not yet been translated into all the official languages. Deploring the lack of transparency which had marked the presentation of the draft resolution, the Mexican delegation requested that the decision on it be delayed.

20. The CHAIRPERSON, referring to article 52 of the rules of procedure of technical commissions of the Economic and Social Council, given that the amendments were substantive and had been submitted late, proposed delaying the decision on draft resolution E/CN.4/1998/L.100 by 24 hours.

21. The Chairperson's proposal was adopted.

Draft resolution E/CN.4/1998/L.101 (The situation of human rights in Rwanda)

22. Mrs. DIALLO (Senegal), introducing the draft resolution on behalf of the sponsors, said that it was vitally important. Rwanda, which four years previously had been the scene of a genocide which it was now universally accepted could have been avoided, was doing its utmost to achieve successful reconstruction. The draft resolution therefore particularly drew the attention of the international community to the need to support that task. Having failed in its duty of prevention, the international community should contribute to the rebuilding of Rwanda.

23. The representative of Senegal drew the attention of Commission members to two changes to be made in the resolution. Firstly, in paragraph 9, the words "strengthening the Military Prosecutor's office" were to be replaced by "strengthening military justice". Secondly, in paragraph 30, which contained the draft decision recommended to the Social and Economic Council, it was preferable to repeat the exact terms of the Commission's resolution 1997/66 to describe the mandate of the Special Representative, namely "to make recommendations on how to improve the human rights situation in Rwanda, to facilitate the creation and effective functioning of an independent national human rights commission in Rwanda, and further to make recommendations on situations in which technical assistance to the Government of Rwanda in the field of human rights may be appropriate".

24. The co-sponsors asked for the draft resolution to be adopted by consensus.

25. Mrs. KLEIN (Secretary of the Commission) announced that Australia, Canada, the United States of America, New Zealand and Switzerland had agreed to co-sponsor the draft resolution.

26. Mr. COMBA (Secretariat) said that the decision to prolong the mandate of the Special Representative by one year would have financial consequences. The sum of US$ 1.3 million needed to finance the activities of the Special Representative in 1998 and 1999 had been included in Section 22 of the current programme budget.

27. Mr. BUCHAN (Canada) said that his delegation was happy to sponsor the draft resolution, which struck a careful balance between the need to continue monitoring the human rights situation in Rwanda and the need to support the efforts of the Government of Rwanda. Commending the delegations that had taken part in negotiations, particularly the delegation of Rwanda, for their constructive approach, his delegation was confident that the same constructive spirit would prevail during discussions between the Office of the High Commissioner for Human Rights and the Government of Rwanda concerning the Human Rights Field Operation in Rwanda.

28. Draft resolution E/CN.4/1998/L.101, as amended, was adopted without a vote.

Draft resolution E/CN.4/1998/L.104 (Situation of human rights in Equatorial Guinea and assistance in the field of human rights)

29. Mrs. DIALLO (Senegal), on behalf of the African Group, introduced draft resolution E/CN.4/1998/L.104, which had been accepted by all parties and which particularly emphasized the progress made by the Government of Equatorial Guinea in the field of protection and promotion of human rights. The positive measures already taken encouraged the hope that the Commission would direct its activities towards the establishment of a genuine technical assistance programme to help the country definitively establish a viable democratic system. The African Group asked that the draft resolution be adopted by consensus.

30. Mrs. KLEIN (Secretary of the Commission) announced that the United States of America was co-sponsoring the draft resolution.

31. Mr. COMBA (Secretariat) said that the decision to prolong the mandate of the Special Rapporteur by one year would have financial consequences. The sum of US$ 96,200 needed to finance the activities of the Special Rapporteur during 1998 and 1999, was already included in Section 22 of the current programme budget.

32. Draft resolution E/CN.4/1998/L.104 was adopted without a vote.

Draft resolution E/CN.4/1998/L.91 (The question of human rights in Afghanistan) (continued)

33. Mr. TOSCANO (Italy) announced that following consultations with all the interested delegations it had been possible to reach a consensus on two changes, to paragraph 3 (b) and (c), which now read as follows:

> "(b) The frequent practice of arbitrary arrest and detention and of summary trials, which have resulted in summary executions, throughout the country, including the recent public executions of male convicts which were carried out by burying the victims alive;
>
> (c) Actions by all parties that constitute interference with the delivery of humanitarian assistance to the civilian population of Afghanistan and which jeopardize the safety of humanitarian personnel, such as the blockade of the Bamyan region and the bombing of the Bamyan

airport, as well as the looting, particularly by elements of the Northern Alliance, on a massive scale of United Nations and other warehouses and offices in Mazar-e-Sharif;".

34. The new draft resolution E/CN.4/1998/L.91, thus amended, was adopted without a vote.

Draft resolution on the question of human rights in Cyprus

35. The CHAIRPERSON proposed that the Commission adopt the following draft decision:

"At its 57th meeting, on 21 April 1998, the Commission decided, without a vote, to retain on its agenda item 10 (a), entitled 'Question of human rights in Cyprus', and to give it due priority at its fifty-fifth session, it being understood that action required by previous resolutions of the Commission on the subject would continue to remain operative, including the request to the Secretary-General to provide a report to the Commission regarding their implementation."

36. The draft decision was adopted.

The meeting rose at 3.55 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 58th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 22 April 1998, at 10 a.m.

Chairman: Mr. SELEBI (South Africa)

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(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

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The meeting was called to order at 10 a.m.

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (agenda item 6) (continued) (E/CN.4/1998/L.19)

Draft resolution on the right to development (E/CN.4/1998/L.19)

1. Mr. CASTRO GUERRERO (Observer for Colombia), introducing the draft resolution, said that the original version drafted by India had been adopted with some modifications by the Movement of Non-Aligned Countries and China and later recast to reflect contributions by representatives of the European Union and many other countries representing all regions. The result was a sound and balanced text that enjoyed significant support.

2. With a view to achieving consensus, the Movement of Non-Aligned Countries had withdrawn four of the paragraphs it had originally approved notwithstanding their importance to the developing countries. The first paragraph had concerned the need to release funds for development through disarmament, an aspiration recognized in the Declaration on the Right to Development. The second had stipulated that human rights should not be used as an instrument to promote protectionism in international trade or economic conditionality, especially through selective interpretation or implementation. The other two paragraphs had referred to the legitimate aspiration, already recognized by the United Nations General Assembly, to include the Declaration on the Right to Development in the Universal Declaration of Human Rights. The draft resolution showed that the right to development was not a source of North-South confrontation but a reflection of humanitarian principles.

3. Mrs. KLEIN (Secretary of the Commission) said that the delegations of Argentina, Austria, Belarus, Brazil, Canada, Denmark, El Salvador, France, Germany, Ireland, Italy, Japan, Russian Federation, United Kingdom and Uruguay, and the observers for Australia, Belgium, Finland, Greece, Norway, Portugal, Spain and Switzerland had become sponsors of the draft resolution.

4. Ms. GLOVER (United Kingdom), speaking on behalf of the European Union, said that, in its statements on agenda items 5 and 6, the Union had urged all parties to endeavour to restore consensus on the right to development so that practical steps could be taken and real benefits drawn from further elaboration of the right. It therefore welcomed the prospect of adoption of the draft resolution without a vote. The Union strongly supported the provision for a follow-up mechanism which should lay the basis for a deepening and strengthening of the international community's reflections on the right to development. The Union trusted that the subject would be addressed in a similarly constructive spirit at the next session of the General Assembly and at future sessions of the Commission.

5. Mr. SUMI (Japan), speaking also on behalf of Australia, congratulated the sponsors on producing a consensus text on the right to development, a right which required a strong commitment by every member of the international community. Non-consensus resolutions in that area were meaningless, since they undermined rather than enhanced the necessary international cooperation.

6. The delegations he was representing particularly welcomed the proposed establishment of a follow-up mechanism consisting of an open-ended working group and an independent expert, and looked forward to participating in the proceedings of the working group. It was to be hoped that the same spirit of cooperation would be shown in negotiating other controversial resolutions, particularly those relating to economic issues, at the Commission's next session.

7. Mr. COMBA (Office of the High Commissioner for Human Rights) said that, if adopted, the draft resolution would authorize the establishment for three years of an inter-sessional working group of the Commission on the right to development which would meet for five working days each year. It would also authorize the appointment for three years of an independent expert to submit a progress report on implementation of the right to development to the working group at each session. The draft resolution would further call upon the Secretary-General to ensure that the working group and independent expert received all necessary assistance to fulfil their mandates.

8. The preliminary estimated full costs of those activities were US$ 33,800 for the biennium 1998-1999 and US$ 19,100 for the biennium 2000-2001. As it was understood that, under the terms of the resolution, the Intergovernmental Group of Experts on the Right to Development would be replaced by the open-ended working group and the independent expert, the financial resources which had been earmarked for the Group of Experts under the programme budget for 1998-1999 would be used to cover the costs associated with the new mechanisms. The resources required for the biennium 2000-2001 would be included in the programme budget for that biennium.

9. Ms. RUBIN (United States) said her delegation was pleased to be able to join the consensus on the draft resolution despite some serious reservations concerning paragraph 4 (c), which implied that developing countries were being actively excluded from the globalization process, the reference in paragraph 4 (d) to structural reforms and the statement in paragraph 3 (a) that the right to life included a right to the "minimum necessities of life". The unwillingness of the sponsors to accept a reference to freedom of speech and belief and freedom from fear and want was also disappointing, since those four freedoms should be the cornerstone of any serious approach to human rights problems.

10. Her Government subscribed to the view that the right to development was a synthesis of many human rights and that the role of human rights was to empower individuals and communities. Implementation of the right to development was therefore predicated on Governments meeting their obligations to promote universal human rights for each individual citizen so that every member of society could reach his or her full potential. Her delegation looked forward to discussing creative and practical ways of implementing the right to development on the basis of that principle. United Nations bodies and international organizations must also develop strategies to include a human rights dimension in their programmes as part of the mainstreaming efforts of the Secretary-General and the High Commissioner for Human Rights.

11. The draft resolution was adopted.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 8) (continued) (E/CN.4/1998/L.43)

Draft resolution on hostage-taking (continued) (E/CN.4/1998/L.43)

12. Mr. BOYTCHENKO (Russian Federation) said that the revised version of paragraph 1 which he had announced when introducing the draft resolution at an earlier meeting had failed to secure universal support. The originators of the proposed revision had therefore agreed not to insist on its inclusion.

13. Mrs. KLEIN (Secretary of the Commission) said that the delegation of Indonesia and the Observer for Georgia had become sponsors of the draft resolution.

14. The draft resolution was adopted.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

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(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(agenda item 9) (continued) (E/CN.4/1998/L.41 and L.73)

Draft resolution on enhancement of international cooperation in the field of human rights (E/CN.4/1998/L.41)

15. Mr. CASTRO GUERRERO (Observer for Colombia), introducing the draft resolution, said that the text was very similar to that of resolution 52/134

adopted by consensus at the last session of the General Assembly. As international cooperation based on dialogue and consultations had proved to be one of the most effective means of promoting and protecting human rights, he urged the Commission to support the draft resolution.

16. Mrs. KLEIN (Secretary of the Commission) said that the Observer for Israel had become a sponsor of the draft resolution.

17. Mr. FROST (United Kingdom), speaking on behalf of the European Union in explanation of vote before the voting, expressed disappointment at the submission of a draft resolution that the Union was obliged to oppose despite its strong support for the enhancement of international cooperation in human rights. It objected to the draft resolution on three grounds: the unsubstantiated implication that cooperation within the Commission was inadequate, the fact that its substance was already being addressed in a draft resolution on the organization of the work of the session (E/CN.4/1998/L.2) and the fact that the draft resolution had been submitted at a very late stage without preparatory consultations or any serious effort to involve interested delegations in discussions.

18. Mr. HÖYNCK (Germany) proposed that some form of compromise should be sought in order to obviate the need for a large number of delegations to vote against a draft resolution on the enhancement of cooperation in the field of human rights.

19. The CHAIRMAN said he shared the view that a consensus was desirable and invited the sponsors to consult all interested parties with a view to producing a consensus text for consideration at the Commission's next meeting.

Draft resolution on human rights and thematic procedures (E/CN.4/1998/L.73)

20. Mr. SOMOL (Czech Republic), introducing the draft resolution, said that previous resolutions on the subject of thematic procedures had always been adopted by consensus. The text before the current session had been improved in the light of the recent performance of the procedures and some new elements had been introduced. The parties that had participated in the consultations had shown flexibility and made mutual concessions to reach a consensus.

21. There were a number of changes to be made to the text. A new second preambular paragraph should be inserted to read: "Emphasizing the importance of the impartiality, objectivity and independence of the thematic procedures as well as the need for due attention to violations of human rights wherever they may occur"; the word "Considering" should be inserted before "inviting" in paragraph 2 (b); the word "the" after "closely" in paragraph 5 (b) should be replaced by "and reflect in their reports any"; and the words "by the appropriate United Nations organ" should be inserted at the end of paragraph 11.

22. Mrs. KLEIN (Secretary of the Commission) said that the delegations of Argentina, France, Ireland, Japan, United Kingdom and United States of America, and the observers for Australia, Belgium, Greece and Portugal had become sponsors of the draft resolution.

23. Mr. ALFONSO MARTÍNEZ (Cuba) commended the sponsors of the draft resolution on the painstaking negotiations that had made it possible to achieve a consensus resolution at a time when the Commission was preparing to undertake an in-depth analysis of all the questions related to its special procedures. His delegation was able to support the compromise text although it would have been better pleased if wording of the kind used in paragraph 9 had been omitted. On the other hand, it supported the new second preambular paragraph and the insertion of the word "Considering" in paragraph 2 (b). He stressed that the Commission should instruct the special procedures as to how resolutions were to be implemented rather than leave the procedures to take the initiative.

24. The draft resolution, as orally revised, was adopted.

RIGHTS OF THE CHILD, INCLUDING:

(a) STATUS OF THE CONVENTION ON THE RIGHTS OF THE CHILD;

(b) REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY;

(c) PROGRAMME OF ACTION FOR THE PREVENTION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY, AS WELL AS THE BASIC MEASURES NEEDED FOR THEIR PREVENTION AND ERADICATION

(agenda item 20) (continued) (E/CN.4/1998/L.40, L.84 and L.92)

Draft resolution on the abduction of children from northern Uganda (E/CN.4/1998/L.40)

Sudan: proposed amendments to E/CN.4/1998/L.40 (E/CN.4/1998/L.84)

25. Mr. ACEMAH (Uganda), introducing the draft resolution, said that the delegation of Nepal and the observers for the United Republic of Tanzania and Zimbabwe had become sponsors. In the spirit of compromise, the sponsors had accepted two modifications. In paragraph 7, the words "to use all available resources and means to force" should be replaced by the words "to exert all possible pressure on the Lord's Resistance Army". Paragraph 9 should be deleted and replaced by the following: "Calls upon Member States to undertake to respect and ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child." In the same spirit of compromise, he asked the delegation of the Sudan to withdraw its proposed amendments to the draft resolution (E/CN.4/1998/L.84), since they would fundamentally change the substance thereof.

26. The primary objective of the resolution was to secure the immediate and unconditional release of up to 10,000 children abducted from Uganda, and in

most cases held hostage for several years, by the so-called Lord's Resistance Army (LRA). He drew particular attention to paragraphs 3, 6, 8 and 10. The Commission had a moral obligation to respond positively to what was currently the most serious violation of children's rights in the world.

27. Mr. CHOWDHURY (Bangladesh) said that his delegation wished to withdraw its sponsorship of the draft resolution, despite its sympathy with the thematic content, since it believed that more consultations, especially with African countries, would have broadened the scope thereof.

28. Mr. AKRAM (Pakistan), speaking in explanation of vote before the voting, said that, since the abduction of children in northern Uganda affected the Sudan as well, the proposed Sudanese amendments in no way ran counter to the draft resolution and he regretted that the sponsors had been unable to accept them. His delegation would vote for both texts.

29. Mr. EL MUFTI (Sudan), introducing his delegation's proposed amendments to the draft resolution (E/CN.4/1998/L.84), said that, with the single exception of the amendment to paragraph 2, they had the simple objective of broadening the scope of the draft resolution to include children abducted from southern Sudan, without changing its substance in any other way.

30. The justification for broadening the scope of the draft resolution was, first of all, that the armed conflict had continued much longer in southern Sudan than in Uganda and at least as many Sudanese children were affected as Ugandan children. Secondly, since the two countries shared a border, many tribes lived on both sides of that border. A child might have one Sudanese and one Ugandan parent. It would therefore be unfair to exclude children with Sudanese nationality from the protection afforded by the resolution.

31. The plight of children in the southern Sudan was well-documented and several provisions of the draft resolution on the situation of human rights in the Sudan (E/CN.4/1998/L.88), which had been adopted the previous day, bracketed children in the Sudan and northern Uganda.

32. The Commission should in any case be concerned about children in armed conflicts anywhere and his delegation was therefore willing to include a reference to any country having the same problem.

33. The reason for the proposed amendment to paragraph 2 was that two NGOs had asserted that the Government of the Sudan supported the Lord's Resistance Army (LRA), an accusation that would have very serious implications if implicitly endorsed by the Commission. His delegation had not, however, proposed the deletion of the reference to the LRA, a non-State actor, despite the fact that such a reference would create legal problems by setting a precedent with a far-reaching impact on many countries.

34. Mr. ACEMAH (Uganda) reiterated that the sponsors of the draft resolution could not accept the amendments proposed by the Sudan (E/CN.4/1998/L.84).

35. Mr. SUMI (Japan) said that, although all the parties concerned should release and return abducted children immediately and unconditionally, the draft resolution, whether or not amended, was too local and too political to

be dealt with in the context of protecting children's rights within the Commission. Attempts by various delegations to persuade the Ugandan and Sudanese delegations to deal with the issue in a more general context had unfortunately proved unacceptable. A resolution expressing concern about all children abducted in armed conflict, a chairman's statement, or a reference in the omnibus resolution on the rights of the child would have been preferable.

36. A very cautious approach should be adopted towards introducing country resolutions under agenda item 20, as the result might be a new wave of resolutions on the human rights of children in various countries. A meaningful omnibus resolution, adopted by consensus and covering various aspects of the rights of the child, was the better solution. His delegation would thus abstain from voting on either of the two texts.

37. Mr. HYNES, (Canada), Mr. H.K. SINGH (India), Mr. VERGNE SABOIA (Brazil), Ms. PÉREZ DUARTE Y NOROÑA (Mexico), Mr. PEREZ del CASTILLO (Uruguay) and Mr. RODRIGUEZ CEDEÑO (Venezuela) concurred.

38. Mr. STROHAL (Austria), supported by Mr. HÖYNCK (Germany), speaking also on behalf of the Observer for Finland, said that, while agreeing with the points made by the representative of Japan, he thought that the information before the Commission warranted the adoption of the draft resolution. The Sudanese amendments were incompatible and the issues involved should be dealt with in the omnibus resolution.

39. The CHAIRMAN suggested that the meeting be suspended for informal consultations between himself and the delegations of Uganda and the Sudan.

The meeting was suspended at 11.20 a.m. and resumed at 11.45 a.m.

40. The CHAIRMAN said that it had, unfortunately, not been possible to come to an amicable resolution in the informal consultations held on the draft resolution and the proposed amendments.

41. At the request of the representative of Uganda, a vote was taken by roll-call on the amendments proposed by Sudan (E/CN.4/1998/L.84) to the draft resolution on the abduction of children from northern Uganda (E/CN.4/1998/L.40).

42. The Philippines, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Bangladesh, Indonesia, Pakistan, Russian Federation, Rwanda, Sudan.

Against: Austria, Botswana, Cuba, Czech Republic, Democratic Republic of the Congo, Denmark, Germany, Ireland, Italy, Luxembourg, Nepal, Poland, South Africa, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Belarus, Bhutan, Brazil, Canada, Cape Verde, Chile, China, Congo, Ecuador, El Salvador, France, Guatemala, Guinea, India, Japan, Madagascar, Malaysia, Mali, Mexico, Mozambique, Peru, Philippines, Republic of Korea, Senegal, Sri Lanka, Tunisia, Ukraine, Uruguay, Venezuela.

43. The amendments proposed by Sudan (E/CN.4/1998/L.84) were rejected by 16 votes to 6, with 30 abstentions.

44. At the request of the representative of Uganda, a vote was taken by roll-call on the draft resolution on the abduction of children from northern Uganda (E/CN.4/1998/L.40).

45. Rwanda, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Austria, Bangladesh, Botswana, Chile, Cuba, Czech Republic, Democratic Republic of the Congo, Denmark, El Salvador, France, Germany, Indonesia, Ireland, Italy, Luxembourg, Nepal, Pakistan, Poland, Russian Federation, Rwanda, South Africa, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Sudan.

Abstaining: Argentina, Belarus, Bhutan, Brazil, Canada, Cape Verde, China, Congo, Ecuador, Guatemala, Guinea, India, Japan, Madagascar, Malaysia, Mali, Mexico, Mozambique, Peru, Philippines, Republic of Korea, Senegal, Sri Lanka, Tunisia, Ukraine, Uruguay, Venezuela.

46. The draft resolution, as orally revised, was adopted by 24 votes to 1, with 27 abstentions.

47. Mr. FERNANDEZ PALACIOS (Cuba) said that his delegation had voted against the Sudanese amendments to the draft resolution because those amendments would have radically changed the purport of the text. It would have preferred a general mention of the situation of children caught up in armed conflicts, and regretted that a compromise had not been reached despite the Chairman's efforts.

Draft resolution on the rights of the child (E/CN.4/1998/L.92)

48. Mr. PEREZ del CASTILLO (Uruguay), introducing the draft resolution, said that it had received broad support from all regions and he hoped it could be adopted by consensus. New elements included a reference to the Convention on the Rights of the Child as a whole and a section on its implementation.

49. He drew attention to a change in the text of paragraph 10 (a): the title of the Special Representative of the Secretary-General should be

corrected to the phrase "for the question of the impact of armed conflict on children", to bring it into line with the language of the General Assembly resolution referred to in the paragraph.

50. Mrs. KLEIN (Secretary of the Commission) said that the delegations of Bangladesh, Botswana, Madagascar, Nepal, Pakistan, Philippines, Ukraine and the United States of America and the observers for Angola, Australia, Bulgaria, Croatia, Cyprus, Georgia, Iceland, Liechtenstein, Lithuania, New Zealand, Norway, Panama, Slovenia, the former Yugoslav Republic of Macedonia and Togo had become sponsors of the draft resolution.

51. Mr. COMBA (Office of the High Commissioner for Human Rights) said that the requirement for the renewal of the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography mentioned in paragraph 8 (a), namely, US$ 88,300 for the biennium 1998-1999, was included under the human rights section of the programme budget. The third year of the mandate would be included in the programme budget for the biennium 2000-2001. As for the meetings of the working group on the question of a draft optional protocol proposed in paragraph 9 (b) and of the open-ended working group on children in armed conflict proposed in paragraph 14 (c), provisions had already been made for the substantive and conference servicing required.

52. Mr. BOYTCHENKO (Russian Federation) said that, regrettably, his delegation could not become a sponsor of the draft resolution since it felt that a number of the provisions were either irrelevant or oblique. His delegation had expressed its views in the informal consultations but its concerns had not been taken into account.

53. The draft resolution was adopted.

THE QUESTION OF CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (agenda item 22) (continued) (E/CN.4/1998/L.93)

Draft resolution on conscientious objection to military service (E/CN.4/1998/L.93)

54. Mr. RYTOVUORI (Finland), introducing the draft resolution, said that increasing weight was being attached to the issue of conscientious objection in the efforts of many States to revise and develop their national legislation. The text recognized the right of everyone to have conscientious objections to military service and reminded States with compulsory military service that they should provide for conscientious objectors various forms of alternative service which were not of a punitive nature.

55. Mr. GOMEZ-ROBLEDO (Mexico), speaking in explanation of position, said that his delegation's participation in the probable consensus on the draft resolution was in accordance with his Government's obligations arising from inter-American conventions in the area of asylum. More particularly, paragraph 7 of the draft resolution did not affect the validity of article 3 of the Caracas Convention on Diplomatic Asylum. The absence of a general agreement on the principles governing asylum had led the General Assembly to

consider, at the end of the 1970s, the possibility of drafting a universal treaty on the matter. A diplomatic conference had even been convened, but had had to be suspended for lack of agreement.

56. The draft resolution was adopted.

57. Mr. Chong Hoon KIM (Republic of Korea) said that, while his delegation had joined the consensus on the draft resolution in a spirit of conciliation and cooperation, he wished to place on record his Government's basic position on the issue. The Government of the Republic of Korea had always attached great importance to the right of freedom of conscience and religion but, at the same time, it recognized its sovereign right and solemn responsibility to defend its territory and maintain public order.

58. Article 29 of the Universal Declaration of Human Rights set limitations on the exercise of the right to freedom of conscience, religion and thought for reasons of public order and general welfare. The Republic of Korea maintained a system of compulsory military service and the current situation in the region made it unavoidable that it should take the form of a universal conscription system, with the full support of the Korean people.

59. The draft resolution suggested an alternative service system, but it would be impractical and not even feasible for some countries in which the burden of military service was very great and the universality of the application of the law strongly upheld by the people. His delegation hoped that, if such a draft resolution were negotiated in the future, wider participation by interested parties and contributions of diverse views should be guaranteed in the process.

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 21) (continued) (E/CN.4/1998/L.103)

Draft resolution on comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (E/CN.4/1998/L.103)

60. Mr. STROHAL (Austria), introducing the draft resolution, said that the five-year review of progress made in implementing the Vienna Declaration and Programme of Action to be carried out in 1998 consisted of two main elements: the coordination segment of the Economic and Social Council in July would review the contributions made by the entire United Nations system while the General Assembly would, at its fifty-third session, assess the progress made on the basis of a comprehensive report from the High Commissioner for Human Rights. In preparation for that report, the High Commissioner had already invited States, the United Nations system, national institutions and NGOs to submit reports and views to her. The draft resolution welcomed the contributions that had already been made and urged all States to contribute actively to the process. It also encouraged regional and national human rights institutions, as well as NGOs, to present their views. It called upon the High Commissioner to make those and subsequent contributions available to the General Assembly at its fifty-third session.

61. Mrs. KLEIN (Secretary of the Commission) said that the delegations of Brazil, Canada, El Salvador, Madagascar, the Russian Federation, the

United Kingdom, the United States of America and Uruguay and the observers for Angola, Armenia, Australia, Cyprus, Mongolia, New Zealand and Thailand had become sponsors of the draft resolution.

62. The draft resolution was adopted.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

Draft decision on organization of the work of the fifty-fifth session

63. The CHAIRMAN suggested that the Commission might wish to adopt the following draft decision:

"At its 58th meeting, on 22 April 1998, the Commission on Human Rights, taking into account its heavy schedule of work, as well as the need to give adequate consideration to all the items on the agenda, and recalling that in previous years the Economic and Social Council had approved the Commission's request for additional meetings for its thirty-seventh to fifty-fourth session, decided, without a vote:

(a) To recommend to the Economic and Social Council that it authorize, if possible within existing financial resources, 30 fully serviced additional meetings, including summary records, in accordance with rules 29 and 31 of the rules of procedure of the functional commissions of the Economic and Social Council, for the Commission's fifty-fifth session; and

(b) To request the Chairman of the Commission at its fifty-fifth session to make every effort to organize the work of the session within the times normally allotted, so that the additional meetings that the Economic and Social Council might authorize would be utilized only if such meetings proved to be absolutely necessary."

64. The draft decision was adopted.

Draft decision on organization of the work of the fifty-fifth session of the Commission: dates of the session

65. The CHAIRMAN suggested that the Commission might wish to adopt the following draft decision:

"At its 58th meeting, on 22 April 1998, the Commission on Human Rights decided, without a vote, pursuant to Economic and Social Council decision 1994/297 of 29 July 1994 and bearing in mind Council decision 1995/296 of 25 July 1995, that the scheduled dates for the Commission's fifty-fifth session should be 15 March to 23 April 1999."

66. The draft decision was adopted.

67. Ms. GLOVER (United Kingdom), speaking on behalf of the European Union and Norway said she wished to raise an issue which was of very serious concern to the Union and which had called into question the Commission's procedures, and thus the effective organization of its work. It was incumbent upon all

States Members of the United Nations to cooperate fully and without conditions with the procedures and mechanisms of its bodies. Failure to do so called the work of the Commission into question, and made the implementation of its primary task - the promotion and protection of human rights throughout the world - more difficult.

68. Despite best efforts offered in a spirit of friendship and cooperation, the Government of Algeria had repeatedly refused to cooperate with the Commission's special procedures. The Union had been in close contact throughout the session with the Algerian delegation in order to encourage it to accept a consensual arrangement under which it would accept visits - as it had promised and was required to do - from the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on torture. The Union had approached those discussions in a positive spirit of full openness and transparency, but it had been impossible to reach a satisfactory outcome.

69. The Union had hoped that a commitment to such visits could have been registered in a statement from the Chair or that the Algerian delegation would make a firm commitment of its own free will to admit the Special Rapporteurs and to agree on firm dates. Such a commitment would have gone a long way to ensuring that allegations of human rights violations would have been effectively addressed, as well as providing proof of cooperation with the Commission.

70. The Union accordingly very much regretted that the Government of Algeria had so far stopped short of engagement with the mechanisms of the Commission, and hoped and expected that it would address the situation in the very near future. It needed to make substantive progress very soon if the concerns of the international community were to be allayed and the very serious allegations of grave human rights violations dealt with.

71. The typical procedure when a Member State did not cooperate with the mechanisms of the Commission was for a resolution to be tabled insisting that it did so. Once the position of the Algerian Government had become clear, the Union had very seriously considered taking that step, but in the end it had not done so because it wished to place credence in the words of that Government. However, the Union did not regard the matter as closed, and wished to remind the Government of Algeria that it had an obligation to cooperate with the Commission's procedures. The Union would therefore be watching very closely to ensure that there was movement, and would be considering its position very carefully at the fifty-third session of the General Assembly and the fifty-fifth session of the Commission if there had been no progress.

72. Ms. RUBIN (United States of America) said that one of the best ways of making the Commission more effective was for all Member States to cooperate fully with it and its mechanisms. During its current session, the United States representative had called on the Government of Algeria to cooperate more fully with the international community by allowing greater access to journalists, parliamentary groups and NGOs. It was the view of the United States Government that a visit to Algeria by the Special Rapporteur on extrajudicial, summary or arbitrary executions would be a critical first step

in helping Algeria to meet its human rights obligations. Her delegation had urged the Algerian delegation to accept a consensual arrangement along those lines, which could have been embodied in a statement from the Chair.

73. It was with great regret, therefore, that her delegation noted that the Government of Algeria had so far refused to take that step towards transparency and cooperation with the Commission, and it once again urged that Government to avail itself of the assistance of the Commission's fact-finding mechanisms.

74. The situation in Algeria was a tragedy that concerned everyone. Acts of terrorism there had targeted innocent civilians and, while her Government believed that the Armed Islamic Group was clearly responsible for most of the slaughter, recent reports in the Algerian press had indicated that it was difficult to determine responsibility for some of the violence. That was why her delegation urged the Algerian Government to utilize one of the international mechanisms available to clarify the situation. It found the Algerian Government's lack of cooperation all the more baffling because her Government in no way disputed the need to fight terrorism, consistent with the rule of law, as well as the need to deal with its consequences.

75. Her delegation acknowledged the efforts the Algerian Government was making, including providing housing and financial support for displaced people, and encouraged it to build on existing cooperation with humanitarian organizations. Algeria had made significant progress towards a multi-party democracy and a freer press, but long-lasting peace and stability ultimately depended on a policy of further political and economic liberalization, including the strengthening of parliamentary institutions and the rule of law. Her delegation encouraged the Government of Algeria to accelerate progress on those reforms.

76. The appalling violence in Algeria was not just an internal problem: it concerned everyone. The United States would continue both privately and publicly to urge the Algerian Government to provide greater transparency and agree to access by the international community.

77. Mr. HYNES (Canada), speaking also on behalf of Australia, Liechtenstein, New Zealand and Switzerland, said that the delegations he was representing unreservedly condemned all acts and all perpetrators of terrorism against the people of Algeria, and fully understood the Algerian Government's determination to fulfil its responsibility to defend its people from that threat. They welcomed that Government's expressed desire, in so doing, to ensure full respect for the human rights and freedoms of all Algerians. They were also in full agreement with what had been said regarding the obligation of Member States to cooperate fully with the human rights institutions of the United Nations.

78. The delegations he was representing welcomed the Algerian Government's stated commitment to genuine cooperation with the mechanisms of the Commission and United Nations human rights treaty bodies and strongly believed that Governments should approach such engagement with the United Nations not from a

defensive or confrontational standpoint but in an open, cooperative spirit consistent with their pledge under the Charter of the United Nations to cooperate in promoting universal observance of human rights for all.

79. If that were borne in mind by all concerned, the perceived gap between the cooperation that had been called for and that which had been pledged could be overcome, and the United Nations and the Commission would then be in a position to make a meaningful contribution to assisting the people and Government of Algeria in meeting the daunting challenges they faced.

80. Mr. DEMBRI (Observer for Algeria) said it was logical that his delegation should have rejected the two formulas mentioned - the statement from the Chair and the draft resolution - because they did not represent a genuine expression of the Commission's collective solidarity. New formulas would have to be sought that would enable established international law to be adapted to deal with the need to crack down on crimes such as those that had recently been committed against members of the staff of the International Committee of the Red Cross (ICRC) in Chechnya and Somalia. His Government's refusal of the two procedural options did not mean that it refused to enter into a dialogue, and the fact that there had been neither a resolution nor a statement from the Chair did not mean that there was a winner and a loser.

81. Human rights was the only winner. Efforts had to continue towards a common understanding of humanitarian ideals, though not in a spirit of confrontation. The positions expounded one by one by his Western colleagues were creating a North-South fracture. His delegation was grateful for the support of the members of the Movement of Non-Aligned Countries and the other countries which had understood what his Government was doing and had given it their support.

82. The dialogue his delegation had engaged in with the representatives of the European Union and the delegation of the United States of America had certainly not been easy, but it had been enormously satisfying in that there were essentially no differences regarding the common concerns. He had noted the European Union's unreserved condemnation of the acts of terrorism perpetrated against civilians in Algeria and its support for the Algerian authorities in identifying, pursuing and punishing those responsible with full respect for the principles governing a State subject to the rule of law.

83. His Government was committed to transparency and open dialogue, as had been attested by the visits of the European troika, the delegation of the European Parliament and many political figures from around the world, as well as by the reports of journalists and intellectuals. Members of the United States Congress would be paying a visit to Algeria in the near future, and there would also be a fact-finding mission in May 1998 by representatives of the international NGOs involved in the field of human rights. Those undertakings, freely entered into, demonstrated his Government's readiness to engage in dialogue.

The meeting rose at 12.55 p.m.

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Fifty-fourth session

SUMMARY RECORD OF THE 59th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 22 April 1998, at 3 p.m.

Chairman: Mr. SELEBI (South Africa)

later: Mr. GALLEGOS CHIRIBOGA (Ecuador)

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CONSIDERATION OF DRAFT RESOLUTIONS UNDER AGENDA ITEMS 9 AND 10 (continued)

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GE.98-12584 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS UNDER AGENDA ITEMS 9 AND 10 (continued)

Draft resolution E/CN.4/1998/L.41 (Enhancement of international cooperation in the field of human rights)

1. Mr. CASTRO GUERRERO (Observer for Colombia) said that the sponsors of the draft resolution had decided, following the Chairman's appeal for consensus, to amend the text by deleting the second preambular paragraph, the reference to General Assembly resolution 51/100 and operative paragraphs 1 and 4. He hoped that those substantive amendments would enable a consensus to be reached and that the parts which had been deleted could be discussed in the near future in a more favourable climate of opinion.

2. Mr. McALISTER (Canada) expressed regret that it had not been possible to achieve agreement on the enhancement of international cooperation, when the Commission at its previous session and the General Assembly in December 1997 had reached an understanding on that issue. If there were a vote, his delegation would be unable to support the draft resolution.

3. Mr. REYES RODRIGUEZ (Cuba) said he failed to understand why the delegation of Canada could not accept the draft resolution as amended, in view of the fact that the controversial points had been deleted and the remaining text resembled that adopted by the General Assembly.

4. Following a discussion in which Mr. REYES RODRIGUEZ (Cuba), Mr. LOFTIS (United States of America), Mr. CASTRO GUERRERO (Observer for Colombia) and Mr. HÖYNCK (Germany) took part, the CHAIRMAN proposed that further consideration of the draft resolution should be postponed.

5. It was so decided.

6. Mr. Gallegos Chiriboga (Ecuador) took the Chair.

Draft resolutions under agenda item 10 (E/CN.4/1998/L.86/Rev.1, L.100 and L.105)

Draft resolution E/CN.4/1998/L.86/Rev.1 (Situation of human rights in Bosnia and Herzegovina, Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro))

7. Mr. KUEHL (United States of America) said that the words "Saint Egidio" should be inserted before "memorandum of understanding" in paragraph 25 (g) of the draft resolution.

8. Mrs. KLEIN (Secretary of the Commission) announced that Ireland and the Islamic Republic of Iran should be added to the list of sponsors.

9. Ms. BECIREVIC (Observer for Croatia) pointed out that the draft resolution dealt simultaneously with the situation of human rights in Bosnia and Herzegovina, in Croatia and in the Federal Republic of Yugoslavia and presented in section I the "core problems" arising "in the region" as a whole;

she would have preferred a more balanced approach, expressly highlighting the differences between the countries with regard to the establishment of democratic institutions and setting out the levels of cooperation of each of the countries with the international community. Noting that the draft resolution contained, as in previous years, a paragraph on the "rules of the road" which had been agreed upon in Rome, she stressed that those measures were applicable only to the territory of Bosnia and Herzegovina and, according to international law, could not be extended to the territory of a third country.

10. Her delegation was surprised that the draft resolution should assign to the Republic of Croatia the major responsibility in the solution of the humanitarian problem of missing persons, in contradiction with the conclusion of the Special Rapporteur who, in her final report, had clearly indicated which country was most lacking in political will to share all information on the fate of missing persons. It should not be forgotten that it had been Croatia which in the past had recommended actions to ensure a speedy and complete exchange of information on missing persons.

11. Generally speaking, the draft resolution did not sufficiently reflect the positive measures by the Government of Croatia to protect and promote human rights, and for all those reasons, the delegation of Croatia was unable to sponsor it. It had been actively involved, however, in its drafting and acknowledged that some of its concerns had been taken into consideration.

12. Mr. COMBA (Secretariat), presenting the financial implications of the draft resolution, said that the establishment of a temporary office of the High Commissioner for Human Rights operating out of permanent premises in Kosovo would be covered by transfers of resources and that all additional expenditures would be financed by extrabudgetary contributions. An amount of $99,000, corresponding to the extension of the Special Rapporteur's mandate for one year, had been entered in section 22 (Human rights) of the 1998-1999 programme budget.

13. Mr. BOYTCHENKO (Russian Federation), speaking in explanation of vote before the vote, began by noting with satisfaction that consultations on the draft resolution under consideration had been conducted in conditions of great transparency. His delegation had taken an active part in the work in the hope that the draft resolution could be adopted by consensus. It contained many very positive aspects and rightly stressed the importance of the role of the Special Rapporteur.

14. His delegation was nevertheless dissatisfied with the general balance of the draft and the focus of some of its provisions, in particular the sections on the Federal Republic of Yugoslavia and the International Criminal Tribunal. To begin with, the name given to the Federal Republic of Yugoslavia should be that used in Security Council resolutions. His delegation also had difficulty accepting certain inaccurate assessments of the situation in the Federal Republic of Yugoslavia, in particular respect for rights and freedoms, the functioning of civil society, the activities of the media and the situation of minorities. It was also concerned about the references to Kosovo and drew attention to the statement by the Chairman of the Commission, which was objective and balanced and made it possible to guarantee the protection of

rights and freedoms in that part of the Republic of Serbia in the Federal Republic of Yugoslavia. The draft resolution was not consistent with that text or with Security Council resolution 1160 (1998); it gave an incorrect description of events and did not adequately reflect the initiatives taken by the Belgrade authorities or the enormous increase in acts of terrorism, or present the situation constructively.

15. With regard to the International Criminal Tribunal for the Former Yugoslavia, the Commission had overstepped its mandate since it was for the Security Council to assess the Tribunal's activity and give it instructions.

16. For all those reasons, the delegation of the Russian Federation requested a separate roll-call vote on paragraphs 22, 25, 29 (b), 30, 33 and 35 taken together, which it would vote against. It also requested a roll-call vote on the draft resolution as a whole, in which it would abstain.

17. Mr. XIE BOHUA (China) said that for his Government Kosovo was part of the territory of the Federal Republic of Yugoslavia. The question of Kosovo should be settled rapidly through political negotiation by the parties concerned in respect for the principle of the sovereignty and territorial integrity of the Federal Republic of Yugoslavia. Because the Balkan countries comprised several ethnic groups, the situation in the region was very delicate and extreme prudence was required. His delegation would therefore abstain from the vote.

18. At the request of the representative of the Russian Federation, a vote was taken by roll-call on paragraphs 22, 25, 29 (b), 30, 33 and 35.

19. Tunisia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Bangladesh, Bhutan, Botswana, Brazil, Canada, Chile, Czech Republic, Denmark, Ecuador, El Salvador, France, Germany, Ireland, Italy, Japan, Luxembourg, Malaysia, Morocco, Mozambique, Nepal, Pakistan, Peru, Philippines, Poland, Republic of Korea, Senegal, Sudan, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Belarus, Russian Federation.

Abstaining: Cape Verde, China, Cuba, Democratic Republic of the Congo, Guatemala, Guinea, India, Indonesia, Madagascar, Mali, Mexico, Rwanda, South Africa, Sri Lanka, Tunisia.

20. Paragraphs 22, 25, 29 (b), 30, 33 and 35 were adopted by 35 votes to 2, with 15 abstentions.

21. At the request of the representative of the Russian Federation, a vote was taken by roll-call on draft resolution E/CN.4/1998/L.86/Rev.1 as a whole.

22. Ecuador, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Bangladesh, Bhutan, Botswana, Brazil, Canada, Chile, Czech Republic, Denmark, Ecuador, El Salvador, France, Germany, Guatemala, Indonesia, Ireland, Italy, Japan, Luxembourg, Malaysia, Mali, Mexico, Morocco, Mozambique, Nepal, Pakistan, Peru, Philippines, Poland, Republic of Korea, Senegal, South Africa, Sudan, Tunisia, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: None.

Abstaining: Belarus, Cape Verde, China, Congo, Cuba, Democratic Republic of the Congo, Guinea, India, Madagascar, Russian Federation, Rwanda, Sri Lanka.

23. Draft resolution E/CN.4/1998/L.86/Rev.1, as orally amended, was adopted by 41 votes to none, with 12 abstentions.

Draft resolution E/CN.4/1998/L.100 (Situation of human rights in the Islamic Republic of Iran) and amendments proposed with the symbol E/CN.4/1998/L.105 (continued)

24. Mrs. KLEIN (Secretary of the Commission) announced that Japan had requested to be taken off the list of sponsors of the draft resolution.

25. Mr. COMBA (Secretariat), presenting the financial implications of the draft resolution, said that the extension of the mandate of the Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran would entail expenditures amounting to 67,200 dollars in 1998 and 1999; provision for that amount had already been made in section 22 (Human rights) of the 1998-1999 programme budget.

26. Mr. AKRAM (Pakistan) said that the Islamic countries which had sponsored the amendments to the draft resolution proposed in document E/CN.4/1998/L.105 had revised their text by deleting paragraph 2. The consultations between the sponsors of the draft resolution and the sponsors of the proposed amendments had unfortunately shown that the proposals by the latter made in a spirit of compromise had not been accepted by the former, who were not apparently prepared to modify the general thrust of their text.

27. As Coordinator of the Working Group on human rights of the Organization of the Islamic Conference (OIC), he wished to stress that the draft resolution was incorrect, exaggerated and based on false assumptions on a number of points. It also contained unacceptable expressions - for example, in paragraph 2 (a), the Government of the Islamic Republic of Iran was urged "to meet expectations for tangible progress" in human rights, without further details. Equally unacceptable was paragraph 3 (d), where the Commission expressed its concern "at the lack of continuity in the cooperation of the Government with the mechanisms of the Commission on Human Rights" and

subparagraphs (h) and (i) of paragraph 4. The member States of the Organization of the Islamic Conference considered that the situation of human rights in the Islamic Republic of Iran was no worse than in many other countries for which no draft resolution had been submitted. He observed that the Islamic Republic of Iran was currently chairing the OIC Summit and that the Commission's work had in the past already led to insulting attacks on Islam. The member States of the OIC hoped that in the future such discriminatory selectiveness vis-à-vis the Muslim countries would cease.

28. In a spirit of compromise, the sponsors of the amendments to the draft resolution had decided not to ask the Commission to take a decision on their proposal. His delegation therefore requested a roll-call vote on the draft resolution and would vote against it.

29. Ms. GLOVER (United Kingdom) thanked the delegation of Pakistan for withdrawing the amendments proposed in document E/CN.4/1998/L.105. She hoped that in the future it would be possible to achieve the consensus which had unfortunately eluded the Commission at the current session.

30. Mr. KHORRAM (Observer for the Islamic Republic of Iran) said that the Commission had already been informed about positive developments in the human rights situation in his country. Since entering office in August 1997, the new President had taken a number of initiatives to consolidate democracy, provide for more active civil and political participation, reinforce the rule of law, promote women's rights, foster national mechanisms for the protection and promotion of fundamental rights and further ensure freedom of expression. While not claiming that the human rights situation was perfect, the Government could solemnly assert that it had already done a great deal and intended to continue on the road to progress.

31. Unfortunately, draft resolution E/CN.4/1998/L.100 failed to recognize those realities and was inspired solely by political and economic interests. It focused mainly on isolated incidents and was too long and repetitive and contained factual errors which indicated that its sponsors were either misinformed or were trying to mislead the Commission. Above all, it did not reflect the remarkable undertakings of the Government of the Islamic Republic of Iran in the area of human rights. The Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran had stated, in introducing his report to the Commission, that he hoped it would adopt a resolution on the Islamic Republic of Iran which would not be bogged down in details and would reflect, and indeed welcome, the prospect of substantial change that was clearly evident in that dynamic society. When the sponsors were told that their draft resolution was not consistent with the report of the Special Representative, their response, as in 1997, was that they had "other sources of information". If that was so, why did they not pass their information on to the Special Representative so that he could verify it and seek clarification from the Government? Would it not be fair at least to give the Government a chance to defend itself before putting allegations into a draft text? The Islamic Republic of Iran had also already argued that under the 1503 confidential procedure the Working Group on Communications considered allegations and Governments were given an

opportunity to respond. In the case of situations examined by a special rapporteur or a special representative under agenda item 10, it was for that rapporteur or representative to review the allegations.

32. From the start of the session, his delegation had informed the sponsors of the draft resolution that it would be ready to have a consensus text in the form of a Chairman's statement instead of a resolution. Regrettably, however, there was a lack of political will to negotiate.

33. In conclusion, the draft resolution only marked the over-politicization of human rights in general and of the Commission in particular. Whatever decision was taken, the Government and people of the Islamic Republic of Iran would continue their efforts for the promotion and protection of human rights. His delegation therefore requested the Commission to vote against the draft which, if adopted, would not facilitate cooperation with the Special Representative.

34. Mr. SYAHRUDDIN (Indonesia) said that it was important to keep in mind the realities of the Islamic Republic of Iran and the progress everyone had witnessed in the sphere of the rule of law and fundamental rights since the previous year. The Special Representative had stressed the efforts made by the Government, particularly in encouraging wide-ranging public discussion. If the Commission adopted draft resolution E/CN.4/1998/L.100 it would not be giving encouragement to the Government of the Islamic Republic of Iran. If the proposed text was put to the vote, his delegation would vote against it.

35. Mr. CHOWDHURY (Bangladesh) said he particularly regretted that the draft under consideration came from Europe, which knew more than any other region about revolutions and social ferment for change. In the Islamic Republic of Iran there had been positive developments in all areas, including human rights. Persia had a civilization dating back 4,000 years, representing an illustrious culture which had always moved at its own pace, sometimes with extreme rapidity and sometimes almost imperceptibly. The Commission should take account of such aspects and give President Khatemi time to allow his commitments to materialize. The Iranian delegation's constructive contribution to the Commission's session also merited reward. His delegation considered that the draft resolution would in no sense help the Islamic Republic of Iran to develop positively and would vote against it.

36. Mr. XIE BOHUA (China) said that the Commission should recognize the efforts made in human rights in recent years by the Islamic Republic of Iran, whose Government had hosted the Sixth Workshop for Regional Arrangements for the Promotion and Protection of Human Rights in the Asia and Pacific Region. Since the draft resolution had not obtained a consensus and since it did not encourage dialogue with the Government of the Islamic Republic of Iran, his delegation opposed it.

37. Ms. GLOVER (United Kingdom), speaking on behalf of the European Union countries and the other sponsors of the draft resolution, said that there had been improvements in some aspects of the human rights situation in the Islamic Republic of Iran and the Government had announced more changes. Those changes

were reflected in the report of the Special Representative and also in the draft resolution, which welcomed the Government's declarations concerning the need to review laws and attitudes which discriminated against women and improvements in the area of freedom of expression. However, the Special Representative had stated clearly in his report that problems persisted and that there were cases of torture and cruel, inhuman or degrading treatment or punishment. He had referred especially to the increase in the number of amputations and stonings decided by the courts. Change in the situation of women and in the situation of Baha'is was also urgently needed. The Special Representative himself had not been allowed to visit the country.

38. Any resolution on human rights in the Islamic Republic of Iran must recognize the good and the bad, encourage improvements and point out continuing problems. Some delegations had argued that if the Commission considered every isolated human rights violation, the list of the countries concerned would be very long, but it was clear that the problems in the Islamic Republic of Iran were not isolated incidents but formed a pattern. Her delegation hoped that in the future the Commission could arrive at a consensus on the question.

39. Mr. HÖYNCK (Germany) said that, as in certain other cases, the Commission was facing the difficult task of welcoming the progress observed in respect for human rights while making it clear that violations continued. The draft resolution precisely reflected that delicate balance and was consistent with the report of the Special Representative. His delegation therefore urged the Commission to adopt that important text.

40. Mr. EL DIN HAMID YOUSIF (Sudan) said that concern for cooperation should always be the rule and not the exception in all the Commission's work on human rights in all countries. Since, according to the information supplied by the Special Representative and the Government of the Islamic Republic of Iran, there had been recent progress in the country, the Commission should take it into consideration. His delegation was therefore opposed to draft resolution E/CN.4/1998/L.100.

41. Mr. PARSHIKOV (Russian Federation) said it seemed that the sponsors of the draft resolution had not done everything in their power to produce a consensus text which would have taken account of recent progress in human rights in the Islamic Republic of Iran and which could have included paragraphs 1, 3 and 11 of the amendments proposed in document E/CN.4/1998/L.105. His delegation also shared the concerns which the delegation of Mexico had expressed the previous day concerning the lack of transparency marking the preparation of the draft resolution. It hoped that the matter would be remedied in the future and that the Commission would eventually be able to adopt a draft resolution by consensus.

42. At the request of the representative of Pakistan, a vote was taken by roll-call on draft resolution E/CN.4/1998/L.100.

43. Uruguay, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Botswana, Brazil, Canada, Chile, Czech Republic, Denmark, Ecuador, El Salvador, France, Germany, Guatemala, Ireland, Italy, Japan, Luxembourg, Peru, Poland, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Against: Bangladesh, Bhutan, China, Congo, Cuba, Guinea, India, Indonesia, Malaysia, Mali, Morocco, Pakistan, Philippines, Sudan.

Abstaining: Belarus, Cape Verde, Democratic Republic of the Congo, Madagascar, Mexico, Mozambique, Nepal, Republic of Korea, Rwanda, Senegal, South Africa, Sri Lanka, Tunisia, Uganda, Ukraine, Uruguay.

44. Draft resolution E/CN.4/1998/L.100 was adopted by 23 votes to 14, with 16 abstentions.

The meeting was suspended at 4.20 p.m. and resumed at 4.25 p.m.

45. Mr. Selebi (South Africa) resumed the Chair.

The meeting rose at 4.30 p.m.